

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARCELLO WILLIAM LESTER,

Petitioner,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS,

Respondent.

Case No. 2:21-cv-01367-JDP (HC)

FINDINGS AND RECOMMENDATIONS
THAT THIS ACTION BE DISMISSED FOR
FAILURE TO PROSECUTE, FAILURE TO
COMPLY WITH COURT ORDERS, AND
FAILURE TO STATE A CLAIM

OBJECTIONS DUE WITHIN FOURTEEN
DAYS

On October 29, 2021, I screened petitioner's petition for writ of habeas corpus, notified him that it failed to state a claim, and granted him sixty days to file an amended petition. ECF No. 8. Petitioner failed to file an amended petition within the allotted time. Accordingly, on February 14, 2022, I ordered petitioner to show cause within twenty-one days why this action should not be dismissed for failure to prosecute and failure to state a claim. ECF No. 9. I notified him that if he wished to continue with this action he must file, within twenty-one days, an amended petition. *Id.* I also warned him that failure to comply with that order would result in a recommendation that this action be dismissed. *Id.*

The deadline has passed, and petitioner has not filed an amended petition nor otherwise responded to the February 14, 2022, order. Accordingly, it is hereby ORDERED that the Clerk of Court shall randomly assign a United States District Judge to this case.

Further, it is hereby RECOMMENDED that:

1. This action be dismissed for failure to prosecute, failure to comply with court orders, and for failure to state a claim for the reasons set forth in the court's October 29, 2021, order. *See* ECF No. 8.

2. The Clerk of Court be directed to close the case.

I submit these findings and recommendations to the district judge under 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court, Eastern District of California. The parties may, within 14 days of the service of the findings and recommendations, file written objections to the findings and recommendations with the court. Such objections should be captioned "Objections to Magistrate Judge's Findings and Recommendations." The district judge will review the findings and recommendations under 28 U.S.C. § 636(b)(1)(C).

IT IS SO ORDERED.

Dated: April 12, 2022


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE